

AMENDED IN ASSEMBLY MAY 6, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2645

Introduced by Assembly Member Dababneh

February 21, 2014

An act to amend Section 1203.9 of the Penal Code, relating to probation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2645, as amended, Dababneh. Probation: mandatory supervision: transfer of case.

Existing law requires a court to transfer the case of a person released on probation or mandatory supervision to the superior court in any other county in which the person resides permanently, unless the transferring court determines the transfer would be inappropriate and states its reasons on the record. Existing law requires the court of the receiving county to accept the entire jurisdiction over the case.

If victim restitution was ordered as a condition of probation or mandatory supervision, this bill would require the transferring court to determine the amount of restitution before the transfer unless the court finds that the determination cannot be made within a reasonable time from when the motion for transfer is made. If a case is transferred without a determination of the amount of restitution, the bill would require the transferring court to complete the determination as soon as practicable.

~~The bill would make these provisions and the above provisions of existing law inapplicable to misdemeanor cases, except as specified.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 1203.9 of the Penal Code is amended to read:

1203.9. (a) (1) Except as provided in paragraph ~~(3)~~ and ~~subdivision (c)~~, (3), whenever a person is released on probation or mandatory supervision, the court, upon noticed motion, shall transfer the case to the superior court in any other county in which the person resides permanently, meaning with the stated intention to remain for the duration of probation or mandatory supervision, unless the transferring court determines that the transfer would be inappropriate and states its reasons on the record.

(2) Upon notice of the motion for transfer, the court of the proposed receiving county may provide comments for the record regarding the proposed transfer, following procedures set forth in rules of court developed by the Judicial Council for this purpose, pursuant to subdivision (d). The court and the probation department shall give the matter of investigating those transfers precedence over all actions or proceedings therein, except actions or proceedings to which special precedence is given by law, to the end that all those transfers shall be completed expeditiously.

(3) If victim restitution was ordered as a condition of probation or mandatory supervision, the transferring court shall determine the amount of restitution before the transfer unless the court finds that the determination cannot be made within a reasonable time from when the motion for transfer is made. If a case is transferred without a determination of the amount of restitution, the transferring court shall complete the determination as soon as practicable. In all other aspects, the court of the receiving county shall have full jurisdiction over the matter upon transfer as provided in subdivision (b).

(b) The court of the receiving county shall accept the entire jurisdiction over the case.

(c) The order of transfer shall contain an order committing the probationer or supervised person to the care and custody of the probation officer of the receiving county and, if applicable, an order for reimbursement of reasonable costs for processing the transfer to be paid to the sending county in accordance with Section 1203.1b. A copy of the orders and any probation reports shall be transmitted to the court and probation officer of the receiving

1 county within two weeks of the finding that the person does
2 permanently reside in or has permanently moved to that county,
3 and thereafter the receiving court shall have entire jurisdiction
4 over the case, with the like power to again request transfer of the
5 case whenever it seems proper.

6 (d) The Judicial Council shall promulgate rules of court for
7 procedures by which the proposed receiving county shall receive
8 notice of the motion for transfer and by which responsive
9 comments may be transmitted to the court of the transferring
10 county. The Judicial Council shall adopt rules providing factors
11 for the court's consideration when determining the appropriateness
12 of a transfer, including, but not limited to, the following:

13 (1) Permanency of residence of the offender.

14 (2) Local programs available for the offender.

15 (3) Restitution orders and victim issues.

16 ~~(e) This section does not apply to a misdemeanor case unless~~
17 ~~both of the following requirements are met:~~

18 ~~(1) The defendant was placed on probation for one or more of~~
19 ~~the following misdemeanor offenses:~~

20 ~~(A) A sex offense requiring registration pursuant to Section~~
21 ~~290.~~

22 ~~(B) An offense involving violence.~~

23 ~~(C) An offense in which the defendant used a firearm as a~~
24 ~~means of offense or defense.~~

25 ~~(D) A third or subsequent conviction of driving under the~~
26 ~~influence of alcohol or any drug.~~

27 ~~(2) The court determines that supervision of the probationer in~~
28 ~~the county of residence is in the best interest of the public or victim~~
29 ~~of the crime.~~